



**DEVELOPMENT OF AMENDMENTS TO RULES AT 329 IAC 9 CONCERNING ADDITIONAL MEASURES
TO PROTECT GROUND WATER REGARDING UNDERGROUND STORAGE TANKS
#06-182(SWMB)**

Overview

The Indiana Department of Environmental Management (IDEM) has developed draft rule language for amendments to 329 IAC 9 concerning additional measures to protect groundwater by requiring new and existing tanks and piping to have secondary containment within a thousand (1,000) feet of any community public water supply system or potable drinking water well.

Citations Affected

329 IAC 9

Affected Persons

Owner, operators, or permittees of underground storage tanks.

Reason(s) for the Rule

The Energy Policy Act of 2005, Public Law 109-58, effective August 8, 2005, contained under Subtitle B the Underground Storage Tank Compliance Act. Under Section 1530 of the Act, Congress requires additional measures to protect ground water by requiring one of the following:

1. Each new underground storage tank or piping connected to any such new tank, installed after February 8, 2007, or any existing underground storage tank, that is replaced after February 8, 2007, must be secondarily contained and monitored for leaks if the new or replaced underground storage tank or piping is within 1,000 feet of any existing community water system or any existing potable drinking water well; or
2. A person that manufactures an underground storage tank or piping for an underground storage tank system or that installs an underground storage tank system is required to maintain evidence of financial responsibility in order to provide for the costs of corrective actions directly related to releases caused by improper manufacture or installation unless the person can demonstrate themselves to be already covered as an owner or operator of an underground storage tank.

As the Solid Waste Board does not regulate the manufacturers of underground storage tanks, the only option is implementation of a requirement for secondary containment for the tanks.

Economic Impact of the Rule

There should be no economic impact to the regulated community or to state government, as all changes are already required by the federal law.

Benefits of the Rule

The changes will provide additional protection to ground water in the state of Indiana.

Description of the Rulemaking Project

- (1) This rule is the direct adoption of federal law and the required federal guidance that is applicable to Indiana.
- (2) Indiana is required by federal law to adopt the provisions of Subtitle B the Underground Storage Tank Compliance Act contained in the Energy Policy Act of 2005, Public Law 109-58, effective August 8, 2005.
- (3) The rule will provide for additional measures to protect groundwater by requiring secondary containment for new and

replaced tanks and piping within a thousand (1000) feet of any community water system and potable drinking water wells.

Scheduled Hearings

First Public Hearing: September 19, 2006, 1:30 p.m., Indiana Government Center South, Conference Center Room A.

Consideration of Factors Outlined in Indiana Code 13-14-8-4

Indiana Code 13-14-8-4 requires that in adopting rules and establishing standards, the board shall take into account the following:

- 1) All existing physical conditions and the character of the area affected.
- 2) Past, present, and probable future uses of the area, including the character of the uses of surrounding areas.
- 3) Zoning classifications.
- 4) The nature of the existing air quality or existing water quality, as appropriate.
- 5) Technical feasibility, including the quality conditions that could reasonably be achieved through coordinated control of all factors affecting the quality.
- 6) Economic reasonableness of measuring or reducing any particular type of pollution.
- (7) The right of all persons to an environment sufficiently uncontaminated as not to be injurious to:
 - (A) human, plant, animal, or aquatic life; or
 - (B) the reasonable enjoyment of life and property.

Consistency with Federal Requirements

This rule will be consistent with federal laws and rules.

Rulemaking Process

The first step in the rulemaking process is a first notice published in the *Indiana Register*. This includes a discussion of issues and opens a first comment period. The second notice is then published that contains the comments and the departments responses from the first comment period, a notice of first meeting/hearing, and the draft rule. The Solid Waste Management Board holds the first meeting/hearing and public comments are heard. The proposed rule is published in the *Indiana Register* after preliminary adoption along with a notice of second meeting/ hearing. If the proposed rule is substantively different from the draft rule, a third comment period is required. The second public meeting/hearing is held and public comments are heard. Once final adoption occurs, the rule must be approved by the Attorney General and the Governor. When approved, the rule becomes effective 30 days after filing with the Indiana Register.